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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

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**FILE:** B-215733

**DATE:** September 25, 1984

**MATTER OF:** David N. Carrell - Relocation -  
Real Estate Expenses - Time Limitation

**DIGEST:**

Employee, who applied for an extension of the time period in which to claim reimbursement of real estate expenses, is not entitled to reimbursement of his selling expenses since his residence was not sold within the 3-year period after his transfer permitted by the Federal Travel Regulations paragraph 2-6.1e, as amended effective October 1, 1982.

Mr. David N. Carrell, an employee of the Defense Logistics Agency, reported for duty at his new duty station, Huntsville, Alabama, October 5, 1980. Upon notice of his transfer, he had immediately listed his residence for sale at his old duty station, Grand Bay, Alabama. Because of the depressed housing market, he was unable to enter into a sales agreement until May 1983 and did not sell his home until January 16, 1984. The agency has asked for an advance decision on whether it may grant Mr. Carrell's request for reimbursement of his selling expenses.<sup>1/</sup> We hold that he is not entitled to reimbursement of real estate selling expenses because the sale of his home was not accomplished within the required time period after his transfer.

Under 5 U.S.C. § 5724a, a Federal employee may be reimbursed certain expenses incurred in connection with real estate transactions resulting from a permanent change of station. Regulations implementing this authority are found

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<sup>1/</sup> The request for an advance decision was submitted by R. G. Bordley, Chief of the Accounting and Finance Division, Office of the Comptroller, Defense Logistics Agency.

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in Part 2, Chapter 6 of the Federal Travel Regulations (FTR) incorp. by ref. 41 C.F.R. §§ 101-7.003. Since these regulations are issued pursuant to statute, they have the force and effect of law.

Paragraph 2-6.1e of the FTR, in effect at the time of Mr. Carrell's transfer, provided that an employee had 1 year from his reporting date at the new duty station to reach settlement on the sale or purchase of a residence in order to be reimbursed. This 1-year period could be extended upon the employee's request for an additional year so long as the particular residence transaction was reasonably related to the change in station. Similar provisions were contained in para. C4000-2 of Volume 2 of the Joint Travel Regulations (JTR), Change No. 177 (July 7, 1980) governing the reimbursement of relocation allowances of civilian employees of the Department of Defense.

Mr. Carrell asserts that a subsequent change in the JTR allowing for a total time period of 2 years following the date of transfer, plus an additional year upon written request, 2 JTR para. C14000-2 (Change No. 208, February 1, 1983), "indicates that the regulations are flexible." Letter from David N. Carrell to Capt. S.J. Ligon, dated February 6, 1984. He also states that the depressed housing market in the Mobile, Alabama, area where his former home was located, justified its delayed sale.

We note that Mr. Carrell was granted a 1-year extension beyond the original October 5, 1981, deadline that applied to him. Since his entitlement period had not expired before August 23, 1982, the new provisions in the FTR and JTR, referred to above, made him eligible for another and final extension of 1 year. 2 JTR para. C14000-2 (Change No. 208, February 1, 1983).<sup>2/</sup>

However, this maximum 3-year period ended on October 5, 1983, more than 3 months prior to the January 16, 1984, sale of Mr. Carrell's home. Although Mr. Carrell entered

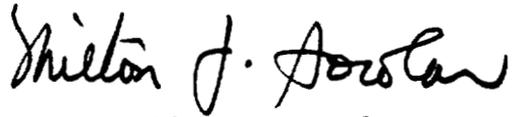
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<sup>2/</sup> The new provisions expressly allowed this additional extension for any employee whose time limitation had not expired prior to August 23, 1982.

into a sales agreement in May 1983, this transaction cannot be used to establish eligibility for reimbursement. The applicable regulations refer to the settlement date, not the date of a sales agreement. We have held that the term "settlement" as used in the FTR refers to the closing of the real estate transaction by the payment of the contract price and the conveyance of the property to the purchaser. Glen A. Kovar, B-186003, October 4, 1976; B-165115, September 11, 1968.

It is established that regardless of extenuating circumstances, a waiver of this time limit may not be allowed if the sale is after the time prescribed by the regulations. William R. Walberg, 58 Comp. Gen. 539 (1979). This rule has previously been applied to employees, who, like Mr. Carrell, have suffered the delayed sale of their homes due to a depressed housing market. Felix C. Cornell, B-214256, June 28, 1984; Robert D. Charlesworth, B-214701, June 4, 1984; Robert R. Ormiston, B-209101, March 7, 1983; James P. Moore, B-207730, July 7, 1982.

While it is unfortunate that Mr. Carrell could not sell his house within the prescribed period, we have no authority to waive the requirements and limitations of the regulations. Accordingly, Mr. Carrell is not entitled to reimbursement of the expenses incurred in selling his house.

*for*   
Comptroller General  
of the United States